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KING COUNTY
SUPERIOR COURT CLERK
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CASE NUMBER: 18-2-00455-1 SEA

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

BLAINE WILMOTTE and MADISON
WILMOTTE,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION d/b/a AMTRAK,

Defendant.

NO.

COMPLAINT FOR DAMAGES

COME NOW the Plaintiffs and pursuant to the common law, the constitution, and other statutes, and claim as follows:

1. **IDENTIFICATION OF PARTIES**

1.1 Plaintiff, Blaine Wilmotte, is an adult U.S. citizen.

1.2 Plaintiff, Madison Wilmotte, is an adult U.S. citizen.

1.3 Blaine Wilmotte and Madison Wilmotte are husband and wife, and were husband and wife at all times relevant.

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LUVERA LAW FIRM
ATTORNEYS AT LAW

6700 COLUMBIA CENTER • 701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104
(206) 467-6090

1 1.4 Defendant, NATIONAL RAILROAD PASSENGER CORPORATION a/k/a
2 AMTRAK (AMTRAK), is a corporation organized and existing under the laws of the United States
3 of America with a principal place of business in Washington, D.C. Defendant AMTRAK has an
4 office for the transaction of business, and transacts business, in King County, Washington.

5 1.5 There may be unknown entities or “John Does” who may be liable and at fault and
6 when their identification becomes known, these pleadings may be amended accordingly.

7 **2. JURISDICTION AND VENUE**

8 2.1 The court has general and specific jurisdiction over the claims asserted herein by
9 Plaintiffs pursuant to RCW 4.28.185 and other Washington statutes. Venue is proper in King
10 County, Washington, because AMTRAK resides in King County within the meaning of RCW
11 4.12.025 as it transacts business in King County, has an office for the transaction of business within
12 King County, transacted business in King County at the time this cause of action arose, and/or has
13 persons residing in King County upon whom service of process for the corporation may be made.

14 **3. NATURE OF OCCURRENCE**

15 3.1. On and before December 18, 2017, Defendant AMTRAK was a corporation doing
16 business as a common carrier engaged in the transportation of passengers between various
17 destinations in the State of Washington.

18 3.2 On December 18, 2017, Defendant AMTRAK through its employees and/or agents,
19 operated, managed, maintained, supervised, owned, designed, constructed and/or controlled
20 AMTRAK Train No. 501, which originated in Seattle, Washington and was destined for other
21 stops.

22 3.3 At approximately 7:33 a.m., AMTRAK Train No. 501 traveled on a segment of
23 railroad track about 40 miles south of Seattle, Washington that was operated, managed,

1 maintained, supervised, owned, designed, constructed and/or controlled, or contracted to operate,
2 manage, maintain, supervise, own and/or control by Defendant AMTRAK. AMTRAK Train No.
3 501 was operated by employees and/or agents of Defendant AMTRAK.

4 3.4 A sharp and dangerous curve existed on this segment where the railroad track
5 crossed over I-5 from west to east.

6 3.5 On December 18, 2017, at approximately 7:33 a.m., AMTRAK Train No. 501
7 approached the curve and bridge crossing I-5 at a speed greatly exceeding the authorized, posted,
8 safe and lawful speed limit for this segment of the track.

9 3.6 AMTRAK Train No. 501 derailed through the curve and at the bridge crossing I-5.
10 Several of the cars, including the lead locomotive, derailed onto the southbound lanes of I-5.

11 3.7 At the time of the derailment, Blaine Wilmotte was a passenger in a vehicle
12 traveling southbound on I-5. The derailed train struck the vehicle, causing serious injuries to
13 Blaine Wilmotte. The photograph below depicts the vehicle in which Blaine Wilmotte was a
14 passenger after it was struck by AMTRAK Train No. 501.



1 3.8 At all times relevant to this accident, Defendant AMTRAK equipped AMTRAK
2 Train No. 501 with a Positive Train Control system (hereinafter “PTC”), but knowingly failed to
3 make the system operable.

4 3.9 In 2008, Congress enacted the Rail Safety Improvement Act of 2008 (RSIA), which
5 requires passenger railroads to install a PTC system no later than the end of 2015.

6 3.10 The PTC systems mandated by Congress were designed specifically to increase
7 safety and prevent derailments caused by excessive speeds, among other purposes.

8 3.11 PTC provides real-time information to train crew members about, among other
9 things, the areas in which a train must be slowed or stopped and the speed limits at approaching
10 curves and other reduced-speed locations.

11 3.12 PTC also warns the train crew of the train’s safe braking distance in curved or
12 reduced-speed locations, and displays the same on screens inside the locomotive’s cab.

13 3.13 If the engineer does not respond to the ample warnings and on-screen displays, the
14 positive train control system will automatically activate the brakes and safely slow or stop the
15 train.

16 3.14 At all times relevant hereto, PTC systems were affordable, available, feasible, and
17 intended to improve safety.

18 3.15 Defendant AMTRAK knowingly and intentionally failed to put in place and utilize
19 an operable PTC or similar safety control system on the AMTRAK Train No. 501 and the segment
20 of railroad track where this tragic and preventable accident occurred.

21 3.16 The failure to have PTC was a factor that caused AMTRAK Train No. 188 to derail
22 in Philadelphia, PA, in 2015.

1 3.17 For at least two (2) years prior to December 18, 2017, Defendant AMTRAK knew
 2 that train control systems safeguard their transportation system and prevent derailments.

3 3.18 Defendant AMTRAK failed to use available train control systems and other safety
 4 technologies that would have prevented the derailment and injuries to Plaintiffs.

5 **4. NATURE OF LIABILITY**

6 4.1 Plaintiffs' injuries, damages and losses were proximately cause by Defendant
 7 AMTRAK's wrongful conduct under common law, and federal and state statutes and regulations,
 8 rendering Defendant liable and at fault for all injuries and damages.

9 4.2 On December 18, 2017, Defendant AMTRAK, through its agents and/or
 10 employees, was a common carrier. AMTRAK owed Blaine Wilmotte the highest duties of care,
 11 as well as duties of ordinary and reasonable care.

12 4.3 Defendant AMTRAK through its agents and/or employees, was at fault, negligent,
 13 reckless and violated its duties of care, including, but not limited to, one or more of the following:

- 14 a. Failed to slow down its train at the aforesaid point when it knew or should
 have known that the speed was too fast for the sharp and dangerous curve;
- 15 b. Operated the train in excess of the authorized, posted, safe and lawful speed
 limit;
- 16 c. Failed to install and render operable proper train-control safety and speed
 system;
- 17 d. Operated the train without keeping a safe and proper lookout;
- 18 e. Failed to comply with Defendant's own operational and safety plan, rules,
 standards, and procedures;
- 19 f. Failed to comply with the applicable federal standards of care, including,
 but not limited to, the failure to comply with applicable federal statutes or
 regulations;
- 20 g. Failed to properly train its agents and/or employees in the safe operations
 of the train;

1
2 h. Failed to properly supervise its agents and/or employees in the proper
operation of the train.

3 4.4 Defendant AMTRAK is also liable for punitive and/or exemplary damages under
choice of law principles for the reckless and/or willful disregard of the rights and safety of
5 passengers and the public.

6 **5. INJURIES, HARM AND DAMAGES**

7 5.1 As a direct and proximate result of one or more of the above acts and/or omissions
of the Defendant AMTRAK, Plaintiff Blaine Wilmotte has suffered physical and emotional
injuries, including but not limited to multiple fractures requiring past and future medical care,
disability, loss of enjoyment of life, pain, anxiety, distress and emotional trauma, physical
10 impairment and disfigurement, pecuniary and economic losses, and other injuries, harm and
11 noneconomic damages which are ongoing, in a total amount to be proven at trial.
12

13 5.2 Plaintiff Madison Wilmotte has lost the consortium of her husband.

14 **6. RELIEF CLAIMED**

15 6.1 Plaintiffs claim all economic and non-economic damages, loss of consortium
damages, prejudgment interest, and other damages proximately caused by Defendant's fault, along
16 with all other compensatory, pecuniary and exemplary damages the jury finds just.
17

18 6.2 Plaintiffs reserve the right to seek other damages as appropriate.

19 WHEREFORE, Plaintiffs pray for judgment against Defendant NATIONAL RAILROAD
20 PASSENGER CORPORATION d/b/a AMTRAK in such amount as will be proven at the time of
21 trial, together with such other and further relief as the jury or court deems appropriate.

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24 COMPLAINT FOR DAMAGES - 6

LUVERA LAW FIRM
ATTORNEYS AT LAW

1 DATED this 4th day of January, 2018.

2 LUVERA LAW FIRM

3 /s/ Robert N. Gellatly

4 Robert N. Gellatly, WSBA 15284
5 David M. Beninger, WSBA 18432
6 Andrew Hoyal, WSBA 21349
7 6700 Columbia Center
8 701 Fifth Avenue
9 Seattle, WA 98104
10 Telephone: (206) 467-6090
11 robert@luveralawfirm.com
12 david@luveralawfirm.com
13 andy@luveralawfirm.com

14 CLIFFORD LAW OFFICES, P.C.

15 Robert A. Clifford
16 Michael S. Krzak
17 Sean P. Driscoll
18 (pending issuance of order granting motion to be filed for
19 Limited Admission Pursuant to APR 8(b))
20 120 N. LaSalle Street, 31st Floor
21 Chicago, Illinois 60602
22 Telephone: (312) 899-9090
23 Telephone: (312) 251-1160
24 rac@cliffordlaw.com
msk@cliffordlaw.com
spd@cliffordlaw.com

15 Attorneys for Plaintiffs